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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Robert E. Burgmeier, Richard L. Goodin, Joseph Delaney Jr., and Larry Peterson
Application No.:	10/749821
Filed:	December 31, 2003
For:	MEDICAL DEVICE WITH VARYING PHYSICAL PROPERTIES AND METHOD FOR FORMING SAME
Examiner:	Mary Benton
Group Art Unit:	3762
Firm Docket No.:	S63.2B-11032-US01

DATE: July 20, 2005TIME: 3:24FACSIMILE NO.: 571-273-8300TOTAL NUMBER OF PAGES (including transmittal letter): 18

## FACSIMILE TRANSMITTAL LETTER

Following please find a(n) 4 page Supplemental Information Disclosure Statement; 1 page List of References; 1 Foreign Reference; and 1 page Facsimile Transmittal Letter.

With respect to fees:

- No additional fee is believed to be required
- Charge any fee deficiency to our Deposit Account No. 22-0350

## Conditional Petition

If any extension of time for the accompanying response is required or if a petition for any other matter is required, applicant requests that this be considered a petition therefore.

If any additional fees associated with this communication are required and have not otherwise been paid, please charge the additional fees to Deposit Account No. 22-0350. Please credit overpayment associated with this communication to the Deposit Account No. 22-0350.

Respectfully submitted,  
VIDAS, ARRETT & STEINKRAUS

Date: July 20, 2005By: 

Walter J. Steinkraus  
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## Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-8300, on July 20, 2005.

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Heidi J. Steuter

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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Docket No.: S63.2B-11032-US01

## INFORMATION DISCLOSURE STATEMENT

Listed below or on an attached form listing the cited references and/or a copy of a PTO-892 form is information known to applicant(s). A copy of each listed foreign patent and each listed publication other than U.S. patents and U.S. patent application publications is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98, *except that* U.S. patents and U.S. published applications from which priority is claimed under 35 U.S.C. §120, and documents cited in such priority applications, may be omitted from the enclosures pursuant to 37 C.F.R. 1.98(d). Applicant's submission of copies of unpublished U.S. applications does not constitute a waiver of the confidentiality of such applications. As such, **Applicant requests that any copies of unpublished US applications submitted herewith be excluded from the file wrapper pursuant to 37 C.F.R. §1.14.**

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If the form listing the cited references or PTO-892 from a prior application is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is prior art, or is or is considered to be, material to patentability as defined in §1.56.

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**Information Disclosure Statement**  
**Attorney Docket No. S63.2B-11032-US01**

Applications that are listed on the accompanying form listing the cited references as related by priority are related by priority claim under 35 USC §120. Pursuant to 37 CFR §1.98(d), no copies of cited art in a previous application(s) to which priority was claimed need be submitted. Applicant is providing copies of the form listing the cited references and/or 892 forms from these cases.

X I. This statement qualifies as a no-fee Information Disclosure Statement under 37 C.F.R. §1.97(b) or otherwise because to the knowledge of the undersigned attorney it is being filed (check all that apply):

- ☐ (1) within 3 months of the filing date of the application (other than a CPA); or
- ☐ (2) within 3 months of entry of the national stage; or
- X (3) before the mailing of a first Office Action on the merits;
- ☐ (4) before the mailing of a first Office Action after the filing of a request for continued examination (RCE) under §1.114;
- ☐ (5) as part of a continued prosecution application (CPA); or
- ☐ (6) during the period of a suspension of action for a CPA under 37 C.F.R. §1.103(b).

☐ II. This statement is believed to require a fee or the submission of a certification under 37 C.F.R. §1.97 (c) or otherwise. If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application (other than CPA); (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; (3) the mailing of a first Office Action on the merits; (4) the mailing of a first Office Action after the filing of a request for continued examination under §1.114; or (5) after the filing of a request for a continued prosecution application, but before the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311 or an action that otherwise closes prosecution in the application, then:

- ☐ (1) a certification as specified in §1.97(e) is provided below; or
- ☐ (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

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**Information Disclosure Statement**  
**Attorney Docket No. S63.2B-11032-US01**

       **III. 37 C.F.R. §1.97(d).** If this statement is being filed after the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application, but before payment of the issue fee, then:

- (1) a certification as specified in §1.97(e) is completed below; and  
       (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with payment of other papers filed together with this statement.

  **X**   **IV. Fee Authorization.** If any fee is due for consideration of this Information Disclosure Statement and full payment has not been submitted herewith, regardless of which boxes have been checked above, the Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 22-0350. The Commissioner is hereby authorized to credit any overpayment associated with this communication to Deposit Account No. 22-0350.

***If paragraph II.1 or III is checked, also check one of the paragraphs below***

       I hereby certify, under 37 CFR §1.97(e)(1), that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the date of the filing of this information disclosure statement.

       This communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

       I hereby certify, under 37 CFR §1.97(e)(2), that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

***For the purpose of this certification, Applicant considers the PCT International Search Authority to constitute a foreign patent office.***

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**Information Disclosure Statement**  
**Attorney Docket No. S63.2B-11032-US01**

If this Information Disclosure Statement has been submitted without the appropriate box checked, Applicant requests that this Information Disclosure Statement be considered nevertheless if it is timely submitted under any of the provisions of 37 C.F.R. §1.97 or otherwise. Finally, if any petition is necessary to ensure consideration of this Information Disclosure Statement, Applicant requests that this be treated as such a petition.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: July 20, 2005

By: 

Walter J. Steinkraus  
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6109 Blue Circle Drive, Suite 2000  
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<b>LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT</b> (Use several sheets if necessary)			ATTY DOCKET NO.: S63.2B-11032-US01		APPLICATION NO.: 10/749821	
			APPLICANT: Robert E. Burgmeier, Richard L. Goodin, Joseph Delaney Jr., and Larry Peterson			
			FILING DATE: December 31, 2003		GROUP: 3762	
REFERENCE DESIGNATION			U.S. PATENT AND PUBLISHED APPLICATION DOCUMENTS			
EXAM'S INT.		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE IF APPROPRIATE
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	AB					
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FOREIGN PATENT DOCUMENTS						
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	BA	EP 1 338 300	8/27/03	Europe		
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